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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

IN RE: Bard IVC Filter Products
Liability Litigation

Case No. MDL 15-02641-PHX-DGC

**UNOPPOSED MOTION FOR ENTRY OF A
QUALIFIED PROTECTIVE ORDER**

By this motion, McSweeney/Langevin, LLC (“Claimants’ Counsel”) seeks the entry of the attached Qualified Protective Order allowing protected health information and/or individually identifiable health information as defined by 45 C.F.R. 160.103 or information that is otherwise protected from disclosure by Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)¹ or other applicable state law, regarding the individuals listed on Exhibit A to the attached Qualified Protective Order, to be transmitted to undersigned counsel and any third-party authorized by undersigned counsel to assist in the resolution of potential liens and

¹ HIPAA shall mean the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936 (1996) and the implementing regulations issued thereunder including 45 C.F.R. Parts 160 and 164. HIPAA allows the Secretary of Health and Human Services to implement any appropriate or necessary regulations. *Murphy v. Dulay*, 768 F.3d 1360, 1368 (11th Cir. 10/10/2014). The Secretary of Health and Human Services promulgated 45 C.F.R. Parts 160 and 164 to address the privacy and disclosure of protected health information and/or individually identifiable health information. *Id.*

1 reimbursement claims. Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc.
2 (collectively, “Bard”) do not oppose this Motion.

3 Bard has entered into a Master Compromise, Settlement, Release and Indemnity
4 Agreement (the “Settlement Agreement”) with plaintiffs and claimants asserting similar claims
5 against Defendant, including the individuals listed on Exhibit A to the attached Qualified
6 Protective Order.

7
8 The Settlement Agreement requires the appointment of a Lien Resolution
9 Administrator to assist in the resolution of potential liens and reimbursement claims, including,
10 but not limited to, those that may be asserted with respect to federal Medicare benefits as
11 contemplated by the Medicare Secondary Payer Act, 42 U.S.C. § 1395y and interpreting case
12 law, including but not limited to private carriers that have provided coverage pursuant to
13 Medicare Part C (any Medicare Advantage Plan); Medicaid liens; other governmental healthcare
14 programs with statutory reimbursement or subrogation rights (including, by way of example
15 without limitation, TRICARE, VA, and Indian Health Services benefits) ; or other private
16 insurers. The Lien Resolution Administrator’s duties and functions include the authority to act
17 as agent for undersigned counsel for purposes of lien identification; to receive and release
18 identifiable health information; and to resolve liens and reimbursement claims.

19
20 In order to complete the duties and functions described above, the Lien Resolution
21 Administrator will need access to protected health information and/or individually identifiable
22 health information as defined by 45 C.F.R. 160.103 or information that is otherwise protected
23 from disclosure by HIPAA or other applicable state law, regarding the individuals listed on
24 Exhibit A to the attached Qualified Protective Order.
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45 C.F.R. 164.512(e)(1)(i) provides:

(e) Standard: Disclosures for judicial and administrative proceedings. (1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding: (i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order....

The attached Qualified Protective Order has satisfactory safeguards in place to limit the disclosure and use of protected health information and/or individually identifiable health information as defined by 45 C.F.R. 160.103 or information that is otherwise protected from disclosure by HIPAA or other applicable state law because the information cannot be used for a purpose other than the settlement of this litigation and the information must be destroyed at the conclusion of this litigation.

Wherefore, Claimants' Counsel respectfully requests that this Motion for Entry of a Qualified Protective Order be granted.

DATED: February 28, 2022

Respectfully submitted,

/s/ David M. Langevin

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AGREED AS TO SUBSTANCE AND FORM:

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CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2022, I electronically transmitted the foregoing document using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ David M. Langevin